

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF )	
ARTESIAN WATER COMPANY, INC. FOR A )	
CERTIFICATE OF PUBLIC CONVENIENCE )	PSC DOCKET NO.17-0412
AND NECESSITY TO PROVIDE WATER )	"MILLPOND ACRES"
SERVICES PURSUANT TO 26 DEL. C. )	
§203C )	
(FILED JUNE 2, 2017) )	

**ORDER NO. 9076**

**AND NOW**, this 11th day of July, 2017, the Delaware Public Service Commission ("Commission") determines and orders the following:

**WHEREAS**, on June 2, 2017, Artesian Water Company, Inc. ("Artesian") submitted an application ("Application") with the Commission pursuant to 26 Del. C. §203C (e) (1) b. seeking a Certificate of Public Convenience and Necessity ("CPCN") to expand its facilities and operations to provide water service to one parcel of land Sussex County, Delaware, and referred to as "Millpond Acres" (the "Proposed Service Area"); and

**WHEREAS**, the Commission Staff ("Staff") reviewed the Application to ensure compliance with the statutory provisions of 26 Del. C. §203C and the Commission's Regulations Governing Certificates of Public Convenience and Necessity for Water Utilities, 26 Del. Admin. C. §2002 (the "Regulations"); and

**WHEREAS**, the Filed Application includes requests for waivers of the timing requirements prescribed in 26 Del. Admin. C. §2002-9.2<sup>1</sup> and

---

<sup>1</sup> Under 26 Del. Admin. C. §2002-9.2, the form of notice required by these regulations shall be sent to each landowner of record not more than thirty-

11.1<sup>2</sup>. As "good cause" for the waiver, Artesian argued that (i) granting the requested waiver would be in the public interest because the timing requirement is an administrative rather than a statutory requirement; (ii) Artesian had provided all necessary information about the parcels; (iii) Artesian believes that granting the waiver should not be unduly disruptive for customers and would provide for an administratively efficient use of resources; and (iv) Artesian believes that extending water service to the parcels listed in the Application would not harm or degrade its ability to provide safe, reliable water service for its existing customers; and

**WHEREAS**, Section 1.5 of the Regulations<sup>3</sup> allows the Commission to excuse any failure to comply with the Regulations that is not material to the Commission's decision; and

**WHEREAS**, Staff has submitted a memorandum to the Commission dated June 13, 2017, which confirms that the Filed Application meets the requirements for granting Artesian a CPCN pursuant to 26 Del. C. §203C and the Regulations except for the timing requirement set forth in 26 Del. Admin. C. §2002-9.2 and 11.1. Staff supports granting a waiver

---

five days and not less than thirty days prior to the filing of the Application.

<sup>2</sup> Under 26 Del. Admin. C. §2002-11.1, A landowner of record of a parcel that is, in whole or part, within a Proposed Service Area may object to a CPCN being granted by filing with the Commission a signed written document reflecting such objection. The objection shall set forth the reasons why the applicant is not entitled to a Certificate. Except for good cause, the written objection shall be filed with the Commission no later than seventy-five (75) days after the landowner received the notice required under Sections 9.1 and 10.1.

<sup>3</sup> 26 Del. Admin. C. §2002-1.5 provides as follows: "The Commission may by Order, and for good cause, waive any obligation under these regulations that is not required by statute and may, in an individual application, excuse any failure to comply with these regulations that is not material to the Commission's decision."

of the regulatory timing requirements in this particular instance for the reasons set forth in its memorandum to the Commission. Accordingly, Staff recommends that the Commission grant Artesian a CPCN based on the Application and also grant Artesian a waiver of 26 *Del. Admin. C.* §2002-9.2 and 11.1;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE  
VOTE OF NO FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to 26 *Del. C.* §203C(e)(1)b.4., the Commission hereby grants to Artesian a CPCN to provide water serve to the Proposed Service Area more specifically identified as 533-12.00-28.00.

2. Based on the provisions of 26 *Del. Admin. C.* §2002-1.5, the Commission also excuses Artesian's failure to follow 26 *Del. Admin. C.* §2002-9.2 and 11.1 and determines that such failure to follow this regulatory requirement is not material to its decision to grant or deny the Application given that Artesian mailed the required form of notice to the landowners of record, although untimely, and no public comments were received in response to the mailed notices.

3. Artesian shall comply with any and all federal, state, county, and local statutes, ordinances, orders, regulations, rules, and permit conditions that are applicable, or may become applicable, to any matter involving water utility services provided to the service territory granted by this CPCN.

4. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

---

Chair

---

Commissioner

---

Commissioner

---

Commissioner

---

Commissioner

ATTEST:

---

Secretary